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Group, Inc., CXO Media, Inc. and Steve Ragan

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

RIVER CITY MEDIA, LLC, a Wyoming  
limited liability company, MARK  
FERRIS, an individual, MATT FERRIS,  
an individual, and AMBER PAUL, an  
individual,

Plaintiffs,

vs.

No. 2:17-cv-105-SAB

DEFENDANTS INTERNATIONAL DATA  
GROUP, INC.'S, CXO MEDIA, INC.'S,  
AND STEVE RAGAN'S RESPONSE TO  
PLAINTIFFS' MOTION TO STRIKE  
DEFENDANTS' SUPPLEMENTAL  
AUTHORITIES IN RESPONSE TO  
COURT QUESTION POSED AT AUGUST  
16, 2017 HEARING

IDG'S, CXO MEDIA, INC.'S, AND STEVE RAGAN'S,  
RESPONSE TO PLAINTIFFS' MOTION TO STRIKE  
DEFENDANTS' SUPPLEMENTAL AUTHORITIES IN  
RESPONSE TO COURT QUESTION POSED AT  
AUGUST 16, 2017 HEARING  
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KROMTECH ALLIANCE CORPORATION, a German corporation, CHRIS VICKERY, an individual, CXO MEDIA, INC., a Massachusetts corporation, INTERNATIONAL DATA GROUP, INC., a Massachusetts corporation, and STEVE RAGAN, an individual, and DOES 1-50,

Without Oral Argument  
Hearing Date: September 22, 2017  
Spokane, Washington

Defendants.

Defendants International Data Group, Inc. (“IDG”), CXO Media, Inc. (“CXO”), and Steve Ragan (“Ragan”) respectfully submit this response to “Plaintiffs’ Motion to Strike Defendants’ Supplemental Authorities in Response to Court Question Posed at August 16, 2017 Hearing and Request for Attorney’s Fees Or, In the Alternative, Request for Leave to File Opposing Supplemental Authorities” (ECF 57).

This Court asked counsel for IDG, CXO, and Ragan during last week’s hearing (August 16, 2017) a question to which he did not know the answer – specifically, whether RCW § 23.95.505 applies in federal courts. We researched the Court’s question and provided that answer in a prompt fashion because we thought it was important to the overall question of whether Plaintiffs’ complaint should be dismissed pursuant to the pending motions. If the answer had been known and stated to the Court at the hearing, we presume that Plaintiffs would have had no objection.

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1 As it is, IDG, CXO, and Ragan have no objection to Plaintiffs providing authority  
 2 that contradicts what we have provided to the Court, although we are unaware of any  
 3 such authority.  
 4

5 Plaintiffs' argument that the authorities provided by IDG, CXO, and Ragan were  
 6 "improper under Local Rule 7.1" finds no support in Local Rule 7.1, which says nothing  
 7 about prohibiting an answer to a question proposed by the Court at a hearing. Plaintiffs'  
 8 reliance on a *Western* District of Washington local rule regarding *surreplies* also does  
 9 not further its cause, nor does a case addressing surreplies. IDG's, CXO's, and Ragan's  
 10 filing simply provided an answer to the question posed by the Court at the hearing.  
 11

12 Further, IDG, CXO, and Ragan strenuously oppose Plaintiffs' demand for  
 13 attorney's fees. There is simply no basis for it. Plaintiffs' recitation of the Court's  
 14 **inherent powers to sanction** – particularly in a situation like this, where IDG, CXO, and  
 15 Ragan were simply providing an answer to the Court's question – shows that Plaintiffs  
 16 are completely untethered to any notion of when sanctions are appropriate or the  
 17 seriousness of requesting them. *See Primus Auto. Fin. Servs., Inc. v. Batarse*, 115 F.3d  
 18 644, 649 (9th Cir. 1997) (noting such "sanctions should be reserved for the 'rare and  
 19 exceptional case where the action is clearly frivolous, legally unreasonable or without  
 20 legal foundation, or brought for an improper purpose.'") (citation omitted). There  
 21 certainly is no bad faith, which is a required finding. *See id.* at 650 ("Because the district  
 22  
 23  
 24

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1 court's inherent powers are so potent, we require courts levying sanctions to assess an  
2 attorney's individual conduct and to make an explicit finding that he or she acted in bad  
3 faith.”).

4  
5 As noted, IDG, CXO, and Ragan do not opposing Plaintiff filing a response to the  
6 authorities submitted to the Court by IDG, CXO, and Ragan. In all other respects,  
7 Plaintiffs' Motion to Strike should be denied.

8  
9 Respectfully submitted this 24<sup>th</sup> day of August, 2017.

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1 I hereby certify that on August 24, 2017, I electronically filed the foregoing with  
2 the Clerk of the Court using the CM/ECF System which will send notification of such  
3 filing to the following:  
4

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